

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

W.R. GRACE & CO., et al.,

Debtors.

Chapter 11

Case No. 01-1139 (JKF)

(Jointly Administered)

Docket Nos. 14014, 14015 and 14140

**AMENDED DESIGNATION OF ITEMS TO BE INCLUDED IN THE
RECORD ON APPEAL AND STATEMENT OF THE ISSUES TO BE
PRESENTED OF APPELLANTS ZAI CLAIMANTS REGARDING
THE BANKRUPTCY COURT’S ORDER RESOLVING MOTION FOR
PARTIAL SUMMARY JUDGMENT, CROSS MOTIONS FOR SUMMARY
JUDGMENT, AND SCHEDULING A STATUS CONFERENCE**

Appellants, ZAI Claimants, by their respective counsel, pursuant to Federal Rule of Bankruptcy Procedure 8006, in connection with the Notice of Appeal [Docket No. 14140, filed on December 22, 2006] of the Bankruptcy Court's Order Resolving Motion for Partial Summary Judgment, Cross Motions for Summary Judgment, and Scheduling a Status Conference, entered in this case on December 14, 2006, docket number 14015 (the "Order") and the Memorandum Opinion relating thereto, docket number 14014 (the "Opinion"), set forth the Designation of Items to be Included in the Record on Appeal and the Statement of Issues as set forth below:

I. DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON APPEAL

A. CASE NO. 01-01139 (JKF) IN RE: W.R.GRACE & CO., ET AL., DEBTORS

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
1.	4/27/2001	165	PRELIMINARY INFORMATION BRIEF in Response to Debtors' Informational Brief Filed by Zonolite Attic Insulation Class Plaintiffs
2.	6/27/2001	586	Motion for Entry of Case Management Order, Establishment of Bar Date, Approval of Proof of Claim Forms and Approval of Notice Program
3.	6/27/2001	587	Memorandum in Support of Motion for Case Management Order, et al. Re: Item #586
4.	7/13/2001	674	Zonolite Plaintiffs' Objection to Debtors' Motion for Entry of Case Management Order, Establishment of Bar Date, Approval of Proof of Claim Forms and Approval of Notice Program; Motion to Extend the Time to Object or Respond to Such Motions; Joinder in Motion for Continuance by Official Committee of Asbestos Property Damage Claimants; Independent Motion to Continue the Hearing on Debtors' Motion; and Request for Consideration and Briefing Regarding Class Treatment
5.	7/13/2001	675	Declaration of Fabrice N. Vincent, Esq. In Support of Zonolite Plaintiffs' Objection to Motion for Case Management Order
6.	11/16/2001	1138	Class Action Complaint Seeking Zonolite Attic Insulation Relief
7.	11/16/2001	1140	Motion by Zonolite Attic Insulation Claimants to Dismiss Debtors' Chapter 11 Bankruptcy Case Pursuant to 11 U.S.C. § 1112(b)
8.	11/16/2001	1141	Memorandum of Law in Support of Zonolite Claimants' Motion to Dismiss the Bankruptcy Case
9.	Dated 11/15/2001; Docketed 12/17/2001	1380	Declaration of Attorney Fabrice N. Vincent in Support of Zonolite Plaintiffs' Motion for Class Certification (<i>Lewis v. W.R. Grace</i>)
10.	2/12/2002	1665	Debtors' Revised Motion as to All Non-Asbestos Claims, Asbestos Property Damage and ZAI Claims for Entry of Case Management Order, Establishment of a Bar Date, Approval of the Proof of Claim Forms and of the Notice Program
11.	2/19/2002	1690	Zonolite Claimants' Informational Brief RE: Class Proofs of Claim

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
12.	2/22/2002	1712	Supplemental Response to New Material in Zonolite Claimants' Class Proof of Claim Brief
13.	2/27/2002	1744	Scheduling Order Regarding Debtors' Revised Motion as to All Non-Asbestos Claims, Asbestos Property Damage and ZAI Claims for Entry of Case Management Order, Establishment of Bar Date, Approval of Proof of Claim Forms and of the Notice Program
14.	3/8/2002	1780	Response and Objection of the Official Committee of Asbestos Property Damage Claimants to the Proposed Asbestos Property Damage Proof of Claim Form Filed in Support of the Debtors' Revised Motion as to All Non-Asbestos Claims, Asbestos Property Damage and ZAI Claims for Entry of Case Management Order, Establishment of Bar Date, Approval of Proof of Claim Forms and of the Notice Program
15.	3/8/2002	1781	Objection of the Zonolite Attic Insulation Claimants to Debtors' Proposed Zonolite Attic Insulation Proof of Claim Form
16.	3/8/2002	1782	Exhibit 1 to Docket No. 1780 (Response and Objection of the Official Committee of Asbestos Property Damage Claimants to the Proposed Asbestos Property Damage Proof of Claim Form Filed in Support of the Debtors' Revised Motion as to All Non-Asbestos Claims, Asbestos Property Damage and ZAI Claims for Entry of Case Management Order, Establishment of Bar Date, Approval of Proof of Claim Forms and of the Notice Program)
17.	3/11/2002	1793	Hearing Transcript for 2/25/2002
18.	3/15/2002	1817	Debtors' Reply to Objections to ZAI Claim Form
19.	3/27/2002	1912	Hearing Transcript of 3/18/2002
20.	4/29/2002	1981	Debtors' Notice of ZAI Claim Filings and of Hearing
21.	5/13/2002	2045	Claimants' Motion to Strike Proofs of Claim and Response to Debtors' Proposed Order Setting Initial Schedule for Litigation Concerning Zonolite Attic Insulation Product Risk
22.	5/13/2002	2057	Hearing Transcript for 4/22/2002
23.	5/17/2002	2071	Debtors' Response to ZAI Claimants Motion to Strike Proofs of Claim and Response to Debtors' Proposed Order Setting Initial Schedule for Litigation Concerning ZAI Product Risk

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
24.	5/31/2002	2131	Notice of Filing of Amended Proof of Claim of John and Margery Prebil (Zonolite Attic Insulation)
25.	5/31/2002	2132	Notice of Filing of Amended Proof of Claim of Paul Price (Zonolite Attic Insulation)
26.	5/31/2002	2133	Notice of Filing of Amended Proof of Claim of Marco Barbanti (Zonolite Attic Insulation)
27.	5/31/2002	2134	Notice of Filing of Amended Proof of Claim of Ralph Busch (Zonolite Attic Insulation)
28.	6/4/2002	2162	Hearing Transcript for 5/20/2002
29.	6/10/2002	2193	Debtors' Omnibus Objection to the Zonolite Attic Insulation Proofs of Claim
30.	6/18/2002	2327	Hearing Transcript for 6/18/2002
31.	6/18/2002	2242	Order (A) Denying Claimants' Motion to Strike Proofs of Claim Filed by the Debtors on Behalf of ZAI Claimants; and (B) Scheduling Matters in Connection With ZAI Proofs of Claim
32.	6/28/2002	2299	Notice of Appeal of Order Dated 6/18/2002 Denying Claimants' Motion to Strike Proof of Claims Filed by Debtors on Behalf of ZAI Claimants
33.	6/28/2002	2300	Motion of Zonolite Attic Insulation Property Damage Claimants Barbanti, Busch, Price, Prebil and McMurchie for Leave to Appeal Order (A) Denying Claimants' Motion to Strike Proofs of Claim Filed by the Debtors on Behalf of ZAI Claimants; and (B) Scheduling Matters in Connection with ZAI Proofs of Claim
34.	6/28/2002	2301	Letter to Court Referencing Motion for Leave to File Appeal and Notice of Appeal Filed by Zonolite Attic Insulation Class Plaintiffs
35.	7/10/2002	2363	Response of Zonolite Attic Insulation Property Damage Claimants to Debtors' Objections to the Zonolite Attic Insulation Proofs of Claim
36.	7/15/2002	2376	Debtors' Objection to the Motion of the ZAI Property Damage Claimants Barbanti, Bush, Price, Prebill and McMurchie for Leave to Appeal Order (A) Denying Claimants' Motion to Strike Proofs of Claim Filed by the Debtors on Behalf of ZAI Claimants; and (B) Scheduling Matters in Connection With ZAI Proofs of Claim
37.	8/5/2002	2502	Hearing Transcript for 7/22/2002 Pages 1 through 59

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
38.	8/5/2002	2503	Hearing Transcript for 7/22/2002 Pages 60 through 106
39.	8/30/2002	2666	Memorandum Opinion RE: Motion of ZAI Claimants for Leave to Appeal an Order of the Bankruptcy Court
40.	9/4/2002	2645	Memorandum Opinion Regarding Zonolite Attic Insulation Property Damage Claimants' Motion for Leave to Appeal
41.	9/4/2002	2646	Order Granting Zonolite Attic Insulation Claimants' Motion for Leave to Appeal
42.	9/9/2002	2670	Hearing Transcript for 8/26/2002
43.	9/11/2002	2676	Debtor's Objection to the Response of ZAI Claimants with Respect to the Scheduling Order for the Zonolite Attic Insulation Science Issues (Related to Docket Nos. 2590 and 2621)
44.	9/18/2002	2704	ZAI Claimants' Motion to Compel
45.	9/20/2002	2715	Debtors' Objections to the ZAI Claimants' Motion to Compel
46.	10/2/2002	2779	Hearing Transcript for 9/23/2002
47.	10/21/2002	2855	Order: the Scope of Discovery will be Limited to What Science Demonstrates with Regard to Whether ZAI Creates an Unreasonable Risk of Harm
48.	11/25/2002	3093	Amended Order Setting Discovery Schedule Re: ZAI
49.	7/7/2003	4007	Memorandum in Support of the ZAI Claimants' Motion for Summary Judgment (Please see Docket No. 4028 for Attachments 1 & 2)
50.	7/7/2003	4009	W.R. Grace & Co.'s Motion for Summary Judgment
51.	7/7/2003	4010	Debtors' Motion to Consolidate the Actions of ZAI Claimants Pursuant to Rule 42
52.	7/7/2003	4011	Appendix to W.R. Grace and Co.'s Motion for Summary Judgment [Volume 1 of 2]
53.	7/7/2003	4012	Debtors' Motion in Limine to Exclude Evidence of any Alleged Damages from the ZAI Science Trial
54.	7/7/2003	4013	Appendix To W.R. Grace & Co.'s Motion For Summary Judgment [Volume 2 of 2]
55.	7/8/2003	4018	Motion For Summary Judgment with Attachments 1 through 27 Filed by Zonolite Attic Insulation Class Plaintiffs
56.	7/8/2003	4019	Exhibit Attachments 28 through 54 of Memorandum in Support of Motion for

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
			Summary Judgment Filed by Zonolite Attic Insulation Class Plaintiffs
57.	7/8/2003	4020	Exhibit Table of Contents and Attachments 55 through 94 of Memorandum in Support of Motion for Summary Judgment Filed by Zonolite Attic Insulation Class Plaintiffs
58.	7/8/2003	4022	Motion in Limine to Exclude Dr. R.J. Lee's Opinion on Cleavage Fragments With Attachments 1 through 11
59.	7/8/2003	4023	Exhibit Attachments 12 through 22 of Motion to Exclude Dr. R.J. Lee's Opinion on Cleavage Fragments
60.	7/8/2003	4025	Exhibit Attachments 23 through 33 of Motion to Exclude Dr. R.J. Lee's Opinion on Cleavage Fragments
61.	7/9/2003	4028	Corrected Zonolite Attic Insulation Claimants' Memorandum in Support of Motion for Partial Summary Judgment RE: W.R. Grace's Consumer Protection Liability (Replacing Attachment No.'s 1 & 2 to Docket # 4007)
62.	8/7/2003	4173	United States' Statement Regarding Asbestos Analysis Issues in W.R. Grace's Motion for Summary Judgment and Claimant's Motion to Exclude Dr. R.J. Lee's Opinion on Cleavage Fragments
63.	8/7/2003	4175	Grace's Memorandum in Opposition to ZAI Claimants' Motion for Partial Summary Judgment Regarding Consumer Protection Act Claims
64.	8/8/2003	4202	Response of ZAI Claimants to Debtors' Motion in Limine to Exclude Evidence of any Alleged Damages From the ZAI Science Trial
65.	8/8/2003	4203	Claimants' Response to Debtors' Motion to Consolidate the Actions of ZAI Claimants Pursuant to Rule 42
66.	8/8/2003	4204	Claimants' Response to W.R. Grace's Motion for Summary Judgment
67.	8/8/2003	4205	Opposition of W.R. Grace & Co. to Claimants' Motion for Summary Judgment
68.	8/8/2003	4206	Opposition of W.R. Grace & Co. To Claimants' Motion To Exclude Dr. R.J. Lee's Opinion On Cleavage Fragments With Exhibit 1
69.	8/8/2003	4207	Exhibit 2 - 13 to Opposition of W. R. Grace & Co. to Claimants' Motion to Exclude Dr. R.J. Lee's Opinion on Cleavage Fragments
70.	8/8/2003	4208	Exhibit 14 to 20 to Docket No. 4206 - Objection to Opposition Of W.R. Grace & Co. To Claimants' Motion To Exclude Dr. R.J. Lee's Opinion On Cleavage Fragments

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
71.	8/8/2003	4209	Exhibit 21 to 26 to Docket No. 4206 - Opposition Of W.R. Grace & Co. To Claimants' Motion To Exclude Dr. R.J. Lee's Opinion On Cleavage Fragments
72.	8/11/2003	4215	Notice of Filing of Exhibits (1 through 29) Filed by Zonolite Attic Insulation Class Plaintiffs
73.	8/11/2003	4216	Exhibits (30 through 60) Filed by Zonolite Attic Insulation Class Plaintiffs
74.	8/11/2003	4217	Exhibits (61 through 89) Filed by Zonolite Attic Insulation Class Plaintiffs
75.	8/18/2003	4291	Zonolite Attic Insulation Claimants' Reply to Grace's Memorandum in Opposition to ZAI Claimants' Motion for Partial Summary Judgment Re W.R. Grace's Consumer Protection Liability
76.	8/18/2003	4293	Claimants' Reply to W.R. Grace's Response to Claimants' Motion to Exclude Dr. R. J. Lee's Opinion on Cleavage Fragments
77.	8/18/2003	4294	Claimants' Reply to W.R. Grace's Response to Claimants' Motion for Summary Judgment
78.	8/18/2003	4296	Reply of W.R. Grace & Co. to United States' Statement Regarding Asbestos Analysis Issues in W.R. Grace's Motion for Summary Judgment and Claimants' Motion to Exclude Dr. R.J. Lee's Opinion on Cleavage Fragments
79.	8/18/2003	4297	Reply in Support of Debtors' Motion in Limine to Exclude Evidence of Any Alleged Damages From the ZAI Science Trial
80.	8/18/2003	4298	Reply of W.R. Grace & Co. to ZAI Claimants' Response to Grace's Motion for Summary Judgment
81.	8/20/2003	4306	Exhibit Table of Contents (related Docket No. 4294) Filed by Zonolite Attic Insulation Class Plaintiffs
82.	6/21/2004	5857	Status Report Regarding the ZAI Science Trial
83.	11/8/2004	6847	Transcript of Hearing held on 10/18/2004
84.	12/14/2006	14014	Memorandum Opinion
85.	12/14/2006	14015	Order

B. CASE NO. 01-01139 (JKF) IN RE: W.R.GRACE & CO., ET AL., DEBTORS**SELECT INDIVIDUAL AND CLASS ZAI PROPERTY DAMAGE PROOFS OF CLAIM
SUBMITTED TO RUST CONSULTING, INC.**

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
86.	6/13/2002	n/a	Amended Proof of Claim of Paul Price (Zonolite Attic Insulation), Claim #1216
87.	6/13/2002	n/a	Amended Proof of Claim of John and Margery Prebil (Zonolite Attic Insulation), Claim #1220
88.	6/13/2002	n/a	Individual Proof of Claim of Marco Barbanti, Claim #1218
89.	6/13/2002	n/a	Individual Proof of Claim of Ralph Busch, Claim #1219
90.	10/28/2002	n/a	Individual Proof of Claim of Shawn and Jerri Dillon, Claim #2256
91.	10/28/2002	n/a	Individual Proof of Claim of Shelly Spencer, Claim #2257
92.	10/28/2002	n/a	Individual Proof of Claim of Walter E. and Mary Mason, Claim #2258
93.	10/28/2002	n/a	Individual Proof of Claim of Kurt and Lisa Salisbury, Claim # 2259
94.	11/1/2002	n/a	Individual Proof of Claim of Doris Matthews, Claim #2283
95.	9/2/2003	n/a	Canadian Class Proof of Claim Through Class Representative Carolyn Fawcett, Claim #TBD
96.	9/2/2003	n/a	Maryland Class Proof of Claim Through Class Representative Gladwin Worden, Claim #15345
97.	9/2/2003	n/a	New York Class Proof of Claim Through Class Representative Daniel Kwas, Claim #15344
98.	9/2/2003	n/a	Michigan Class Proof of Claim Through Class Representatives Eino and Eili Koski, Claim #15343
99.	9/2/2003	n/a	Idaho Class Proof of Claim Through Class Representatives Kurt and Lisa Salisbury, Claim #TBD

C. ADVERSARY CASE NO. 01-8810**LEWIS, ET AL. V. W.R. GRACE & COMPANY, ET AL.**

EXHIBIT	ENTRY DATE	DOCKET NO.	DOCUMENT
100.	11/16/2001	1	Class Action Complaint Seeking Zonolite Attic Insulation Relief
101.	12/17/2001	2	Zonolite Plaintiffs' Motion for Class Certification of Zonolite Claims and Memorandum in Support of Zonolite Plaintiffs' Motion for Class Certification (Subsequently Dismissed Without Prejudice)

II. STATEMENT OF THE ISSUES TO BE PRESENTED ON APPEAL

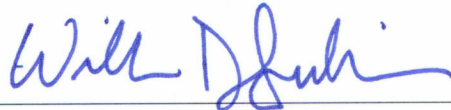
The ZAI Claimants seek reversal of the Bankruptcy Court's Order to the extent it granted Grace's Motion for Summary Judgment and denied the ZAI Claimants' Motion. The questions to be presented upon appeal are:

- a. Whether the Bankruptcy Court erred in granting summary judgment when there were conflicting issues of material fact and inferences to be drawn from those material facts, and where the Court made factual findings as to disputed issues by favoring evidence supporting Grace's position.
- b. Whether the Bankruptcy Court erred by failing to ascertain or apply the substantive state laws governing the product liability claims of the respective ZAI Claimants.
- c. Whether the Bankruptcy Court erred by failing to ascertain or apply the substantive state laws governing the consumer protection claims of the respective ZAI Claimants.
- d. Whether the Bankruptcy Court erred by superimposing an unprecedented, federal "unreasonably dangerous" test on all legal claims of the respective ZAI Claimants.
- e. Whether the Bankruptcy Court erred by imposing "risk of disease" as a prerequisite to cognizable harm compensable under applicable consumer protection statutes.
- f. Whether the Bankruptcy Court erred by imposing "risk of disease" as a prerequisite to cognizable tort-based property damage claims.

- g. Whether the Bankruptcy Court erred by holding that no facts permit the conclusion that ZAI is “unreasonably dangerous.”
- h. Whether the Bankruptcy Court erred by failing to evaluate “unreasonably dangerous” under applicable risk/utility or consumer expectations analyses.
- i. Whether the Bankruptcy Court erred by imposing a strict liability “unreasonably dangerous” test on all tort-based claims for property damage.
- j. Whether the Bankruptcy Court erred in equating ZAI property damage claims to so-called “stigma” claims.
- k. Whether the Bankruptcy Court erred in relying on so-called “comparative risk” evidence.

Dated: January 23, 2007
Wilmington, Delaware

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